

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 939
94TH GENERAL ASSEMBLY

Reported from the Special Committee on General Laws April 17, 2008 with recommendation that House Committee Substitute for Senate Committee Substitute for Senate Bill No. 939 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

4250L.03C

AN ACT

To repeal sections 242.230, 242.430, 242.500, 245.020, 245.105, 245.175, 245.197, and 246.305, RSMo, and to enact in lieu thereof eight new sections relating to certain district taxes.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 242.230, 242.430, 242.500, 245.020, 245.105, 245.175, 245.197, and 246.305, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 242.230, 242.430, 242.500, 245.020, 245.105, 245.175, 245.197, and 246.305, to read as follows:

242.230. The chief engineer shall make a report in writing to the board of supervisors once every twelve months and [oftener] **more often** if said board shall so require. Upon receipt of the final report of said engineer concerning surveys made of the lands and other property contained in the district organized, and plans for reclaiming the same, the board of supervisors shall adopt such report or any modification thereof approved by the chief engineer after consulting with [him] **the chief engineer** or someone representing [him] **the chief engineer**, and thereafter such adopted report shall be the plan for draining, leveeing or reclaiming such lands and other property from overflow or damage by water, and it shall after such adoption be known and designated as "The Plan for Reclamation", which plan shall be filed with the secretary of the board of supervisors and [by him] copied **by the secretary** into the records of the district.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 Supplemental plans for draining, leveeing, or reclaiming **some or all of** the lands and other
12 property in the district from overflow or damage by water may be adopted by the board of
13 supervisors from time to time as deemed necessary by the board of supervisors. The aforesaid
14 supplemental plans may supplement, alter or modify "The Plan for Reclamation" and shall
15 become a part thereof.

242.430. 1. The board of supervisors of any drainage district organized under the
2 provisions of sections 242.010 to 242.690 shall as soon as elected and qualified, levy a uniform
3 tax of not more than [one dollar] **eight dollars** per acre upon each acre of land within such
4 district, as defined by the articles of association to be used for the purpose of paying expenses
5 incurred or to be incurred in organizing said district, making surveys of the same and assessing
6 benefits and damages and to pay other expenses necessary to be incurred before said board shall
7 be empowered by section 242.450 to provide funds to pay the total cost of works and
8 improvements of the district.

9 2. In case the boundary lines of the district be extended under the provisions of section
10 242.050, so as to include lands and other property not described and contained in the articles of
11 association, the same uniform tax shall be made on such lands and other property as soon as
12 same shall have been annexed and included in the district.

13 3. Such tax shall be due and payable as soon as assessed and if not paid by December
14 thirty-first of the year in which it has been levied, the same shall become delinquent. It shall
15 become a lien on the land and other property against which it is assessed and shall be collected
16 in the same manner as the annual installment of tax. In case the sum received from such
17 assessment exceeds the total cost of items for which the same has been levied, the surplus shall
18 be placed in the general fund of the district and used to pay cost of construction; provided, that
19 if the corporation of the district be dissolved, as provided for in section 242.290, the amount of
20 surplus, if there be any, shall be prorated and refunded to the landowners paying such uniform
21 tax.

242.500. 1. Whenever the **board of supervisors of any district in existence as of**
2 **August 28, 2008, or organized under this chapter after August 28, 2008, on behalf of the**
3 **district, or the** owners of twenty-five percent or more of the acreage of the lands in the district
4 shall file a petition with the circuit clerk in whose office the articles of association were filed,
5 stating that there has been a material change in the values of **all or some of** the property in the
6 district since the last previous assessment of benefits or readjustment of the assessment of
7 benefits and praying for a readjustment of the assessment of benefits **of the property identified**
8 **in the petition** for the purpose of making a more equitable basis for the levy of the maintenance
9 tax or for the purpose of levying a new tax to pay the costs of the completion of the proposed
10 works and improvements as shown in the supplemental plan for reclamation adopted by the
11 board of supervisors pursuant to section 242.230, or for both of the aforesaid purposes, the

12 circuit clerk shall give notice of the filing and hearing of the petition in the manner and for the
13 time provided for in section 242.030. The notice may be in the following form:

14 Notice is hereby given to all persons interested in the lands and property included within
15 the district that a petition has been filed in the office of the clerk of the circuit court
16 of County,, praying for a readjustment of the assessment of benefits **of all or**
17 **some of the property in the district as identified in the petition** for the purpose(s) of
18, and that the petition will be heard by the circuit court on the day of, 20.....
19,

20 Clerk of the circuit court County
21

22 Upon hearing of the petition if the court finds that there has been a material change in the values
23 of **some or all of the** property in the district **as identified in the petition** since the last previous
24 assessment of benefits, the court shall order that there be made a readjustment of the assessment
25 of benefits **for the lands identified in the petition** for the purpose of providing a basis upon
26 which to levy the maintenance tax of the district or for the purpose of levying a new tax to pay
27 the costs of the completion of the proposed works and improvements as shown in the
28 supplemental plan for reclamation adopted by the board of supervisors pursuant to section
29 242.230, or for both of the aforesaid purposes.

30 2. Thereupon the court shall appoint three commissioners, possessing the qualifications
31 of commissioners appointed under section 242.240 to make such readjustment of assessments
32 in the manner provided in section 242.260 **with respect to the lands identified in the petition**
33 and the commissioners shall make their report, and the same proceedings shall be had thereon,
34 as nearly as may be, as are herein provided for the assessment of benefits accruing for original
35 construction; provided, that in making the readjustment of the assessment of benefits, the
36 commissioners shall not be limited to the aggregate amount of the original or any readjustment
37 of the assessment of benefits, and may assess the amount of benefits that will accrue from
38 carrying out and putting into effect such supplemental plan for reclamation adopted by the board
39 of supervisors pursuant to section 242.230. After the making of such readjustment, the
40 limitation of twenty percent of the annual maintenance tax which may be levied shall apply to
41 the amount of benefits as readjusted, and the limitation of the tax which may be levied for
42 payment of the costs of the completion of the proposed works and improvements as shown in
43 the aforesaid supplemental plan for reclamation shall apply to the amount of the benefits as
44 readjusted. There shall be no such readjustment of benefits oftener than once in a year. The list
45 of lands, and other property, with the readjusted assessed benefits and the decree and judgment
46 of the court, shall be filed in the office of the county recorder as provided in section 242.280.

245.020. 1. After such articles of association shall have been filed, the clerk in whose
2 office the articles of association have been filed shall give notice by causing publication to be

3 made once in some newspaper published in each county in which the land and other property
4 of the district are situate[; said] . **Such** notice shall be published within fourteen days of filing
5 of the articles[; said] , **and the** notice shall be substantially in the following form and it shall be
6 deemed sufficient for all purposes of sections 245.010 to 245.280:

7 NOTICE OF APPLICATION TO FORM LEVEE DISTRICT.

8 Notice is hereby given to all persons interested in the following described real estate and
9 other property in County of Missouri (here describe the property as set out in the articles
10 of association) that articles of association asking that the foregoing lands and other property be
11 formed into a levee district under the provisions of sections 245.010 to 245.280, RSMo, have
12 been filed in this office, and the foregoing real estate and other property will be affected by the
13 formation of said levee district and be rendered liable to taxation for the purposes of paying the
14 expenses of organizing and making and maintaining the improvements that may be found
15 necessary to effect the leveeing and reclamation of the land and other property in said district,
16 and you and each of you may file objections or exceptions to said articles of association and
17 petition on or before the day of, 20..., in this office, but not thereafter, if any there
18 be, why said levee district as set forth in the articles of association shall not be organized as a
19 public corporation of the state of Missouri.

20,

21 Clerk of circuit court of County.

22
23 The circuit court of the county in which said articles of association have been filed shall
24 thereafter maintain and have original and exclusive jurisdiction coextensive with the boundaries
25 and limits of said district without regard to county lines, for all purposes of this law; provided,
26 that where lands in different counties are sought to be incorporated in the same district, it shall
27 not be necessary to include all of the lands in said proposed levee district in the notice published
28 in the different counties, but only such lands and other property in the district as are situate in
29 the respective counties.

30 2. Within fourteen days of the filing of the articles, those petitioning for the creation of
31 the district shall mail, by certified mail, a copy of the notice contained in this section to the
32 names as listed on the county assessor's records of the owners of land **identified in the petition**
33 or other individual or corporate franchise property in the district **identified in the petition**,
34 including all public entities owning land within the district.

245.105. The chief engineer shall make a report in writing to the board of supervisors
2 when said board shall so require it. Upon receipt of the final report of said engineer concerning
3 surveys made of the lands and other property contained in the district organized, and plans for
4 reclaiming or protecting the same the board of supervisors shall adopt such report or any
5 modification thereof approved by the chief engineer after consulting with [him] **the chief**

6 **engineer** or someone representing [him] **the chief engineer**, and thereafter such adopted report
7 shall be the plan for leveeing, protecting or reclaiming such lands and other property from
8 overflow or damage by water, and it shall after such adoption be known and designated as "the
9 plan for reclamation" which term shall include leveeing, diking, bank protection, current control
10 or other improvement, which plan shall be filed with the secretary of the board of supervisors
11 and [by him] copied **by the secretary** into the records of the district. Supplemental plans for
12 leveeing, protecting or reclaiming **some or all of** the lands and other property in the district from
13 overflow or damage by water may be adopted by the board of supervisors from time to time as
14 deemed necessary by the board of supervisors. The aforesaid supplemental plans may
15 supplement, alter or modify "the plan for reclamation" and shall become a part thereof.

245.175. 1. The board of supervisors of any levee district organized under the
2 provisions of sections 245.010 to 245.280 shall levy a uniform tax of not more than [one dollar]
3 **eight dollars** per acre upon each acre of land and each mile of right-of-way of all public service
4 corporations, within such district, as defined by the articles of association to be used for the
5 purpose of paying expenses incurred or to be incurred in organizing said district, making surveys
6 of the same and assessing benefits and damages and to pay other expenses necessarily to be
7 incurred before said board shall be empowered by section 245.180 to provide funds to pay the
8 total cost of works and improvements of the district.

9 2. In case the boundary lines of the district be extended under the provisions of section
10 245.140, so as to include lands and other property not described and contained in the articles of
11 association, the same uniform tax shall be levied on such lands and other property as soon as
12 same shall have been annexed and included in the district.

13 3. Such tax shall be due and payable as soon as assessed and if not paid by December
14 thirty-first of the year in which it has been levied the same shall become delinquent. It shall
15 become a lien on the land and other property against which it is assessed and shall be collected
16 in the same manner as the annual installment of tax is collected. In case the sum received from
17 such assessment exceeds the total cost of items for which the same has been levied, the surplus
18 shall be placed in the general fund of the district and used to pay cost of construction; provided,
19 that if the incorporation of the district be dissolved, as provided for in section 245.275, the
20 amount of surplus, if there be any, shall be prorated and refunded to the landowners paying such
21 uniform tax; provided further, that if the levee district be located within a third or fourth class
22 city of this state, or within a city in this state under fifty thousand population operating under
23 a special charter, then in the discretion of its board of supervisors, a uniform tax not exceeding
24 five dollars may be levied on each lot, tract, parcel or subdivision thereof as set forth in the
25 decree of the court incorporating said levee district.

245.197. 1. Whenever the board of supervisors of any district now existing or hereafter
2 organized pursuant to sections 245.010 to 245.280, for and in behalf of the district, or the owners

3 of twenty-five percent or more of the acreage of the lands in the district, shall file a petition with
4 the circuit clerk[,] in whose office the articles of association were filed[,] stating that there has
5 been a material change in the values of **all or some of** the property in the district since the last
6 previous assessment of benefits or readjustment of the assessment of benefits, and praying for
7 a readjustment of the assessment of benefits **of the property identified in the petition** for the
8 purpose of making a more equitable basis for the levy of the maintenance tax or for the purpose
9 of levying a new tax to pay the costs of the completion of the proposed works and improvements
10 as shown in the supplemental plan for reclamation adopted by the board of supervisors pursuant
11 to section 245.105, or for both of the aforesaid purposes, the court wherein the petition is filed,
12 if in session, or the clerk thereof in vacation, shall fix a date for the hearing of the petition which
13 date shall not be less than forty-five nor more than sixty days from the date of the filing of the
14 petition.

15 2. The circuit clerk shall give notice **to all persons interested in the lands and**
16 **property identified in the petition** of the filing and hearing of the petition in the manner and
17 for the time provided for in section 245.020. Such notice may be in the following form:

18 To All Persons Interested in the **following described (insert description of lands and**
19 **property)** Lands and Property Included Within District:

20 You are hereby notified that a petition has been filed in the office of the clerk of the
21 circuit court of County, Missouri, praying for a readjustment of the assessment of
22 benefits for the purpose(s) of
23 and
24 that the petition will be heard by the circuit court on the day of, 20....

25
26 Clerk of the Circuit Court of
27 County, Missouri.

28 3. Upon the hearing of the petition, if the court finds that there has been a material
29 change in the values of **the** property in the district **identified in the petition** since the last
30 previous assessment of benefits, the court shall order that there be made a readjustment of the
31 assessment of benefits **for the lands identified in the petition** for the purpose of providing a
32 basis upon which to levy the maintenance tax of the district or for the purpose of levying a new
33 tax to pay the costs of the completion of the proposed works and improvements as shown in the
34 supplemental plan for reclamation adopted by the board of supervisors pursuant to section
35 245.105, or for both of the aforesaid purposes.

36 4. Thereupon the court shall appoint three commissioners possessing the qualifications
37 of commissioners appointed under section 245.110 to make such readjustment of assessments
38 in the manner provided in section 245.120 **with respect to those lands identified in the**
39 **petition**. The commissioners shall make their report, and the same proceedings shall be had

40 thereon, as nearly as may be, as are provided in sections 245.010 to 245.280, for the assessment
41 of benefits accruing from the original construction. In making the readjustment of the
42 assessment of benefits, the commissioners shall not be limited to the aggregate amount of the
43 original or any readjustment of the assessment of benefits, and may assess the amount of benefits
44 that will accrue from carrying out and putting into effect the supplemental plan for reclamation
45 adopted by the board of supervisors pursuant to section 245.105. After the making of the
46 readjustment, the limitation of ten percent of the benefits assessed for the annual maintenance
47 tax which may be levied shall apply to the amount of benefits as readjusted, and the limitation
48 of the tax which may be levied for payment of the costs of the completion of the proposed works
49 and improvements as shown in the aforesaid supplemental plan for reclamation shall apply to
50 the amount of the benefits readjusted.

51 5. There shall be no such readjustment of benefits [oftener] **more often** than once in a
52 year. The lists of land and other property, with the readjusted assessed benefits and the decree
53 and judgment of the court, shall be filed in the office of the county recorder as provided in
54 section 245.130.

246.305. 1. In any levee **or drainage** district formed pursuant to the laws of this state
2 having assessed valuation of real property of twenty-five million dollars or greater, which is
3 located in whole or in part in a county with a charter form of government and with more than
4 one million inhabitants according to the last decennial census, the board of supervisors may by
5 order, resolution or ordinance, following a public hearing thereon called upon notice as provided
6 in section 245.060, RSMo, adopt the following alternative procedure with respect to voting
7 rights: voting by landowners of the levee **or drainage** district shall be determined on the basis
8 of the assessed benefits of the property owned and the owner of each piece of property shall
9 receive one vote per ten thousand dollars of assessed benefits, rounded to the next lowest amount
10 in cases where assessed benefits do not evenly tally. In cases where the assessed benefits of a
11 piece of property are below ten thousand dollars, the owner shall be entitled to one vote.

12 2. In any levee district formed under the laws of this state, the board of supervisors may,
13 by order, resolution, or ordinance, following a public hearing thereon called upon notice as
14 provided in section 245.060, RSMo, adopt the procedure in this subsection with respect to the
15 apportionment of installment taxes. After the making of a readjustment of the assessment of
16 benefits, **partial or otherwise**, pursuant to section 245.197, RSMo, then the board of supervisors
17 shall reapportion and levy on each tract of land or other property in the district **identified in the**
18 **petition** the taxes imposed under section 245.180, 245.190 or 245.198, RSMo, in proportion to
19 the benefits assessed as readjusted and not in excess thereof. In case bonds have been issued as
20 provided in sections 245.010 to 245.280, RSMo, then the amount of interest which will accrue
21 on such bonds shall be included and added to said taxes as reapportioned and levied based upon
22 the benefits assessed as readjusted. The secretary of the board of supervisors, as soon as said

23 tax has been reapportioned, shall, at the expense of the district, prepare a list of all taxes as
24 reapportioned and levied, in the form of a well-bound book, which book shall be endorsed and
25 named "Readjusted Levee Tax Record of District", which endorsement shall also
26 be printed or written at the top of each page of said book, and shall be signed and certified by
27 the president and secretary of the board of supervisors, attested by the seal of the district, and
28 the same shall thereafter become a permanent record in the office of the secretary. The board
29 of supervisors shall each year thereafter determine, order and levy the amount of the annual
30 installment of the total taxes levied under section 245.180, 245.190 or 245.198, RSMo, based
31 upon such reapportionment, which shall in all other respects be due and collected as provided
32 in section 245.185, RSMo.

33 **3. In any drainage district formed under the laws of this state, the board of**
34 **supervisors may, by order, resolution, or ordinance, following a public hearing thereon**
35 **called upon notice as provided in section 242.150, RSMo, adopt the procedure in this**
36 **subsection with respect to the apportionment of installment taxes. After the making of a**
37 **readjustment of the assessment of benefits, partial or otherwise, under section 242.500,**
38 **RSMo, then the board of supervisors shall reapportion and levy on each tract of land or**
39 **other property in the district identified in the petition the taxes imposed under section**
40 **242.450, 242.470, or 242.502, RSMo, in proportion to the benefits assessed as readjusted**
41 **and not in excess thereof. In case bonds have been issued as provided in chapter 242,**
42 **RSMo, then the amount of interest which will accrue on such bonds shall be included and**
43 **added to such taxes as reapportioned and levied based upon the benefits assessed as**
44 **readjusted. As soon as the tax has been reapportioned, the secretary of the board of**
45 **supervisors shall, at the expense of the district, prepare a list of all taxes as reapportioned**
46 **and levied, in the form of a well-bound book, which book shall be endorsed and named**
47 **"Readjusted Drainage Tax Record of District", which endorsement shall also**
48 **be printed or written at the top of each page of the book, and shall be signed and certified**
49 **by the president and secretary of the board of supervisors, attested by the seal of the**
50 **district, and shall thereafter become a permanent record in the office of the secretary. The**
51 **board of supervisors shall each year thereafter determine, order, and levy the amount of**
52 **the annual installment of the total taxes levied under section 242.450, 242.470, or 242.502,**
53 **RSMo, based upon such reapportionment, which shall in all other respects be due and**
54 **collected as provided in section 242.460, RSMo.**

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